

LLOYDS TSB  
38/2002/221

**CHANGE OF USE FROM A2 (FINANCIAL SERVICES) TO A3 (FOOD AND DRINK) AT FORMER LLOYDS TSB PREMISES, 25 FORE STREET, TAUNTON.**

22690/24510

FULL

1.0 **RECOMMENDATION**

I recommend that permission be GRANTED subject to the following conditions:-

- 01 The development hereby permitted shall be begun within five years of the date of this permission.
- 01 Reason: In accordance with the provisions of Section 91(1) of the Town and Country Planning Act, 1990.
- 02 Odours arising from cooking should not be detectable at the facade of any residential or other odour sensitive premises. (This potential problem could be overcome by the fitting of a suitably filtered air extraction system).
- 02 Reason: To ensure that the proposed development does not prejudice the amenities of the locality by reason of smell.
- 03 Noise from any air extraction system should not exceed background noise levels by more than 3 dB(A) for a 2 minute leq, at any time when measured at the facade of residential or other noise sensitive premises.
- 03 Reason: To ensure that the proposed development does not prejudice the amenities of the locality by reason of noise.

**Notes to Applicant**

- 01 You are advised that in planning, designing and operating this establishment you will need to have regard to the requirements of the Food Safety (General Food Hygiene) Regulations 1995 and the Food Safety (Temperature Control) Regulations 1995. Failure to comply with the regulations is a criminal offence. You are strongly urged to obtain a copy of the relevant Industry Guide, which provides detailed guidance on compliance with these regulations. Industry Guide to Good Hygiene Practice: Catering Guide, Industry Guide to Good Hygiene Practice: Retail Guide, Industry Guide to Good Hygiene Practice: Baking Guide, Industry Guide to Good Hygiene Practice: Markets and Fairs, Industry Guide to Good Hygiene Practice: Fresh Produce, Industry Guide to Good Hygiene Practice: Wholesale Distributors. Available from: CHGL, Chadwick Court, 15 Hatfields,

LONDON SE1 8DJ priced at ú3.60 each. Telephone 020778275882 or, in the case of the catering, retail and baking guides, by calling in person at the Environmental Health reception at Deane House, Taunton.

- 02 You are advised that if this is a new food business, then at least 28 days prior to opening, the food premises must be registered with the Environmental Health Department. Telephone 01823 356342 for a registration form. Failure to register is a criminal offence
- 03 You are advised that any new shop front, signage or material alteration to the appearance of the building, or major internal alterations, will require listed building consent and planning permission.

## 2.0 **APPLICANT**

Lloyds TSB

## 3.0 **PROPOSAL**

The proposal is for the change of use of the former TSB premises (Use Class A2) to Use Class A3, which includes restaurants, pubs, snack bars, cafes, wine bars, and shops for sale of hot food. There are no proposals included for any external or internal works to the premises. Appendix A includes a letter from the agent indicating how the property has been marketed for A1 and A3 uses and the enquiries and interest shown for these uses.

## 4.0 **THE SITE**

The site comprises the former Lloyds TSB bank building situated on the corner of Fore Street and Corporation Street, and directly opposite the northern end of High Street. The building, now vacant, is a Grade II listed building, and was built in 1857. The building is situated within the primary shopping area of Taunton, and the Castle Green Conservation Area. It is also within the curtilage of the Taunton Castle Ancient Monument.

## 5.0 **RELEVANT PLANNING HISTORY**

None.

## 6.0 **RELEVANT PLANNING POLICIES**

### **Somerset & Exmoor National Park Joint Structure Plan Review (Adopted April 2000)**

POLICY STR1

SUSTAINABLE DEVELOPMENT

Development in Somerset and the Exmoor National Park should:

- be of high quality, good design and reflect local distinctiveness;

- develop a pattern of land use and transport which minimises the length of journeys and the need to travel and maximises the potential for the use of public transport, cycling and walking;
- minimise the use of non renewable resources;
- conserve biodiversity and environmental assets, particularly nationally and internationally designated areas;
- ensure access to housing, employment and services;
- give priority to the continued use of previously developed land and buildings;
- enable access for people with disabilities.

## POLICY STR2

### TOWNS

Bridgwater, Burnham-on-Sea and Highbridge, Chard, Crewkerne, Frome, Glastonbury, Ilminster, Minehead, Shepton Mallet, Street, Taunton, Wellington, Wells, Wincanton and Yeovil are identified as Towns. They will function as locations for employment and shopping, cultural, community and education services and residential use. Taunton and Yeovil will provide a subregional role for certain services including, shopping and financial & administrative services.

## POLICY 21

### TOWN CENTRE USES

The functional centres of Towns and Rural Centres will be the primary focal points of new facilities particularly for shopping, leisure, entertainment and, financial and administrative services, which need to be accessible to a wide range of the population and are suitable for access by a choice of means of transport. In identifying sites for such development, a sequential approach, that respects the sustainable development principles of this plan, should investigate opportunities in the following order:

- 1 in town centres,
- 2 in edge-of-town centre locations,
- 3 in local centres, and only then,
- 4 in new locations within or well related to the settlements concerned, that are accessible by a choice of means of transport.

Consideration should be given to the impact that the development might have on the vitality and viability of the existing town or rural centre and other similar settlements nearby, and to measures necessary to maintain a balance between them.

## **Taunton Local Plan**

## POLICY S/6 Non-Retail Uses in Main Shopping Streets

### **Taunton Deane Local Plan Revised Deposit (November 2000)**

Policy S1 General Requirements

Policy EC7 Accessibility of new Development- Major Travel Generators

POLICY EN18

#### CHANGE OF USE, ALTERATION, CONVERSION OR EXTENSION OF A LISTED BUILDING

The change of use, alteration, conversion or extension of a Listed Building will not be permitted unless:

- (A) the internal and external fabric of the building including its architectural and historic features would be preserved, leaving them in situ where possible;
- (B) the building's internal space would be retained where this is important to its character or historic integrity;
- (C) no subdivision of a garden or other open space would occur, where this would harm the building's character, setting and historic integrity;
- (D) the design, materials and building methods used are sympathetic to the age, character and appearance of the building. Natural materials reflecting those in the original building should be used, where possible;
- (E) any extension is sufficiently limited in scale so as not to dominate the original building or adversely affect its appearance.

POLICY T30

#### PRIMARY SHOPPING AREA

Within the Primary Shopping Area, proposals for the conversion of shops to other uses at ground floor level or the provision of non retail units at ground floor level by new build or refurbishment will not be permitted, except where:

- (A) the proposal would help to sustain and enhance the vitality and viability of the Primary Shopping Area; and
- (B) ~~the percentage of permitted non-retail frontage (as a result of the development) within the relevant sub area (as defined on the proposals map) does not generally exceed 15% of the total available frontage at ground floor level, and the proposal will not form a continuous frontage of more than 2 non-retail uses;~~ the retail function of the immediate area

will not be undermined by the increased proportion of non-retail uses:  
or

- (C) the conversion ensures the restoration or rehabilitation of a listed building which is currently in a poor state of repair and which has remained vacant for a significant period of time. Applicants will be required to demonstrate that any such property has been actively marketed for retail use.

#### POLICY T33

#### DIVERSITY IN THE TOWN CENTRE

Proposals which complement the existing range of shopping facilities and create diversity and interest in the town centre will be permitted. Such uses include restaurants, cafes, public houses, leisure and arts facilities.

### 7.0 **RELEVANT CENTRAL GOVERNMENT POLICY**

#### **PPG2 General Policy and Principles**

Paragraphs 4 - 6 Sustainable Development

Paragraph 26 The Importance of Town Centres

#### **PPG6 Town Centre and Retail Development**

Paragraph 2.12 The local planning authority should therefore encourage diversification of uses in the town centre as a whole. Whilst recognising and supporting the shopping function of the primary shopping area, and of distinct quarters in larger city centres, policies should reflect the differences between the type and size of centre. Different but complementary uses, during the day and in the evening, can reinforce each other, making town centres more attractive to local residents, shoppers and visitors. Leisure and entertainment facilities, museums and libraries, hotels and conference centres, street markets, restaurants, pubs, bars and cafes, universities and colleges all add variety.

Paragraph 2.22

Paragraph 2.25 Changes of use, whether in town, district or local centres, can however sometimes create new concentrations of single uses, such as restaurants and take-away food outlets, where the cumulative effects can cause local problems. Such proposals should be assessed not only on their positive contribution to diversification, but also on the cumulative effects on such matters as loss of retail outlets, traffic, parking and local residential amenity. These issues should be resolved when making

planning decisions, rather than permissions being unimplementable when licences are refused.

### **PPG15 Planning and the Historic Environment**

Paragraph 2.18

Paragraph 3.8 Generally the best way of securing the upkeep of historic buildings and areas is to keep them in active use. For the great majority this must mean economically viable uses if they are to survive, and new, and even continuing, uses will often necessitate some degree of adaptation. The range and acceptability of possible uses must therefore usually be a major consideration when the future of listed buildings or buildings in conservation areas is in question.

Paragraph 3.9 Judging the best use is one of the most important and sensitive assessments that local planning authorities and other bodies involved in conservation have to make. It requires balancing the economic viability of possible uses against the effect of any changes they entail in the special architectural and historic interest of the building or area in question. In principle the aim should be to identify the optimum viable use that is compatible with the fabric, interior, and setting of the historic building. This may not necessarily be the most profitable use if that would entail more destructive alterations than other viable uses. Where a particular compatible use is to be preferred but restoration for that use is unlikely to be economically viable, grant assistance from the authority, English Heritage or other sources may need to be considered.

Paragraph 3.10 The best use will very often be the use for which the building was originally designed, and the continuation or reinstatement of that use should certainly be the first option when the future of a building is considered. But not all original uses will now be viable or even necessarily appropriate: the nature of uses can change over time, so that in some cases the original use may now be less compatible with the building than an alternative. For example, some business or light industrial uses may now require less damaging alterations to historic farm buildings than some types of modern agricultural operation. Policies for development and listed building controls should recognise the need for flexibility where new uses have to be considered to secure a building's survival.

### **DoE Circular 5/94 Planning out Crime**

Paragraph 14

### **Crime and Disorder Act 1998**

#### SECTION 17. DUTY TO CONSIDER CRIME AND DISORDER IMPLICATIONS

17. (1) without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
- (2) This section applies to a local authority, a joint authority, a police authority, a National Park authority and the Broads Authority.

### **Ministerial Statement (DETR) February 1999 regarding PPG6**

Regarding PPG6 it states that:-

“Proposals for new retail and leisure development which accord with an up-to-date plan strategy or are proposed on sites within an existing centre, should not be required to demonstrate that they satisfy the test of need because this should have been taken into account in the development plan”

Whilst not strictly a leisure use, the A3 use proposed is considered to fall within the general terms of this statement.

## 8.0 **CONSULTATIONS**

### **County Highways Authority**

“From a highway point of view there is no objection to this proposal.”

### **Planning Policy**

“The building is situated within the Primary Shopping Area, where it is the Council's intention to sustain a vibrant shopping core at the heart of the town centre. The relevant policy context is provided by policy S/6 (TLP), and policy T30 (TDLP).

To inform the decision, the relevant considerations must be:-

1. The current use of the property
2. The location of the property
3. The impact of the proposal

1. The current use of the property. The use of the property is currently Class A2, being formerly a bank. Accordingly, the premises are already a non-class A1 use within the Primary Shopping Area. It should be noted that the design

of the building is very typical of an older style bank (late C19th/early C20th). Accordingly, the premises will be difficult to let as a shop, given the limited window display areas.

2. The location of the property. The property is located at the junction of Fore Street and Corporation Street, at the heart of the Primary Shopping Area. The site is one of the busiest pedestrian routes within the town centre, as confirmed by the recent town centre Vitality and Viability Study (refer to Appendix 1). This situation has continued to prevail, even with the property now vacant. It should be noted that draft work on the revision to the Vitality and Viability Study (due for publication later this year) has highlighted that Taunton has a far higher concentration of Class A1 uses within the town centre compared to the national average. Furthermore, monitoring work undertaken by the Borough Council highlights that this particular part of the primary shopping area has remained stable over the past five years with regard to the presence of non class A1 uses (refer to Appendix 2).

3. The impact of the proposal. The change of use to Class A3 will not affect pedestrian footfall at this general location. To the contrary, the current situation should be improved given that the building is currently vacant.

Furthermore, the fact that the use of the premises is currently non Class A1 will make it very difficult to demonstrate any adverse impact upon the function of the Primary Shopping Area. This is supported by the fact that the general area has remained stable with regard to the presence of non class A1 units, together with the high proportion of class A1 units within the town centre compared to the national average.

Given the above, I am of the opinion that the proposal is acceptable from a planning policy perspective.

Any potential problems with Class A3 uses, such as litter, noise and disturbance are matters to be considered in conjunction with other responsible bodies, such as Environmental Health, the Licensing Authority and the police. I suggest that the appropriate consultations are undertaken to seek their advice.”

### **Environmental Health Officer**

“Thank you for consulting on the above Application. Change of use from A2 (financial services) to A3 (food and drink) at former Lloyds TSB premises, 25 Fore Street, Taunton. I would wish to make the following observations due to the possibility of odours from cooking and noise from any air extraction equipment.

ODOURS      Odours arising from cooking should not be detectable at the facade of any residential or other odour sensitive premises. (This potential problem could be overcome by the fitting of a suitably filtered air extraction system).

NOISE Noise from any air extraction system should not exceed background noise levels by more than 3 dB (A) for a 2 minute leq, at any time when measured at the facade of residential or other noise sensitive premises.

**Conservation Officer**

“Clearly my concerns relate to the potential changes to the building to implement the use of approved.

These concerns are:- signs; means of escape; ventilation for public areas/kitchen etc.; use of upper floors.

Please attach Note N020, if permission granted.”

**Avon & Somerset Constabulary (Architectural Liaison Officer)**

“I have no adverse comments to make at this stage regarding the development and have written to the developer to offer my services.

I have passed a copy of the application to Sergeant Peter Yensen of Taunton Police Station for his information.”

**Town Centre Manager**

“I would like to reiterate that the Town Centre Partnership objects profoundly to this application not on the grounds of oversupply as stated in your assessment but on the grounds of safety and diversity and public access.

Safety - the Police are already overstretched in staffing Taunton Town Centre at night indeed a month ago a prisoner had to be taken to Cardiff to find an available cell in effect this removed 2 police officers off the beat for the rest of the shift. This is not in the best interests of the safety of others using the town. Any additional capacity will add to this problem. it is also inevitable that competing outlets will have to compete on price and volume of sales, again, a very unsafe situation where the customers in the town at night are young and susceptible.

With reference to the diversity of use of buildings is it in your plan to concentrate the night time economy into the High Street/Fore Street area of the town? If so the daytime retailers need to know, because their businesses will be marginalised by that policy I regularly receive calls from retailer who have to bear the significant costs and inconvenience of cleaning and repairing their premises after the excesses of customers using the town the night before.

Public Access - by allowing our most architecturally significant buildings to be used as licenced premises a large section of the community is excluded from them.

### **Taunton and District Civic Society**

The Taunton and District Civic Society is of the same opinion and share the sentiments as expressed by the Town Centre Manager.

### **Taunton Deane Licensed Victuallers Association**

“This would apparently provide for another licensed establishment in an already over-provided area.

If this were to happen then we are sure that sooner rather than later some of them would be forced to close their doors - there is not an infinite number of customers in the Taunton area - and we would then have a Town Centre with closed and unsightly buildings in it. Also, the local Police only have limited resources to deal with an already overcrowded workload on a weekend, using more and more police within the Town Centre merely means that other areas are not being properly policed.

### **Taunton Deane Disability Forum**

The Disability Discrimination Act 1995 may apply to the proposed works. Development should consult the BS 8300 to see if he needs to consider carrying out further work.

### **Avon & Somerset Constabulary (Town Centre Sergeant)**

Police policy is that all applications within the town centre for A3 should be challenged at least to restrict the hours of opening to 11 p.m. at the least. Increase in the late night premises are the cause of the increase in violence that has been experienced in the town centre. These applications must not go through without hearing police objections and we seek the committees support and help in preventing the increase in public violence in the Town Centre.

A supporting report by the Avon & Somerset Constabulary entitled “Has an increase in Licensed Premises had an affect on the Crime Levels in the Taunton Town Centre”.

This report is included in full in Appendix B.

## 9.0 **REPRESENTATIONS**

There have been no representations received to this proposal.

## 10.0 **PRINCIPLE ISSUES FOR CONSIDERATION**

- A. Is the property appropriate for an A3 use having regard to the Development Plan Policies? POLICY

B. What are the implications in terms of Crime and Disorder in Taunton Town Centre of the addition of a further Class A3 property? CRIME AND DISORDER

C. Sustainability? SUSTAINABILITY

### **A. Policy**

Policies STR2 and Policy 21 of the Somerset & Exmoor National Park Joint Structure Plan identifies that Taunton should function as locations for employment, shopping and cultural uses. It states that the town centre should be the focal point of new facilities, and uses which sustain the vitality and viability of the town centre encouraged. The advice in these policies are in line with the guidance in PPG6 which advises that while retailing should continue to underpin town centres, it is only part of what ensures the health of town centres.

The proposal is considered to be acceptable in terms of its impact on the vitality and viability of the town centre, and the use is appropriate to its town centre location.

Policy S1 and EC7 of the Taunton Deane Local Plan- Revised Deposit are both considered to be met by the proposals. Policy EN18 concerns the affect any proposal would have on a Listed Building. This Grade II property is an important feature within Taunton town centre. The large property is not ideally suited for many A1 uses given its lack of window frontage, and the floor space is too large for many smaller independent retailers who may have been looking for prime retail space within the town centre. Major alterations to the frontage of the building would not be considered to meet the criteria of Policy EN18. It is considered that the change of use to an A3 use would offer opportunities for a user of the building to be found that would not require such major window frontage to the property.

Policy T30 is the most relevant policy to this proposal. It is concerned with the loss of A1 units within the primary shopping area. The property is situated within the primary shopping area, but as the building currently has a non-Class A1 use (formerly a bank, Class A2), it cannot be argued that the change of use of the property to an A3 use will lead to the loss of a Class A1 unit. It is considered that the proposal meets with the criteria as set out in this policy. Studies carried out for the Vitality and Viability Study of the Taunton centre has shown that Taunton has a higher concentration of Class A1 uses within the town centre than the national average, and the presence of non-retail uses within this part of the town has remained stable over the past five years. Given that the property is also currently vacant, it is considered that the pedestrian footfall at this location, which is one of the busiest areas of the town centre, should increase if a new use was found for the building.

Given the existing non-retail use class of the building it is considered that the criteria of the policy are met by the proposal. Policy T33 of the plan is also considered to be appropriate to this proposal. The creation of diversity in the

town centre in terms of its uses should be encouraged in order to maintain and enhance vitality and viability. Any proposal needs to be assessed as to whether they will complement or threaten the key retail function of the area. It is considered that the use of the building as a Class A3 use would not detrimentally impact on the retail function of the area as it is not currently in retail use, and would indeed benefit the area given its current vacant use.

In conclusion the proposal is acceptable in terms of national guidance and policies within the development plan.

## **B. Crime and Disorder**

The main objections to the proposed change of use are based on the perceived over supply of this type of use within the town centre, and the problems that are encountered with unsocial behaviour from people using these establishments. A copy of the police report into the increase of licensed premises in Taunton town centre and the impact that this has had on the crime levels has been included in Appendix B. It is not considered appropriate for the Officer to comment on the validity of the methodology and conclusions of the report. The report finds that there has been an increase in violent incidents in the town centre over the last 5 years, and there has been a increase in the amount of incidents in that area committed in licensed premises. The report shows that there has been an increase in the number of licensed premises in the town centre.

Under Section 17 of the Crime and Disorder Act 1998 local authorities have a duty to consider the implications of planning decisions on crime and disorder in the area. It is not considered that the granting of permission for a A3 use on this premises would be against the advice in this act to prevent crime and disorder in the area.

The proposal that is being considered in this report is for the change of use of the property to an A3 use. This use class includes such uses as pubs, restaurants, cafes, wine bars and shops for the sale of hot foods. It does not follow that the use will automatically be a licensed premises. The provision of such uses within the Town Centre is promoted in principle in the Local Plan, although not where it would undermine retail viability and vitality. Faced with this principle of support there would need to be an overriding justification on crime and order issues to justify permission being refused. Whilst there is concern generally from the local policy they are asking for restrictions against any additional public houses being provided in the town centre. This cannot be substantiated on planning grounds. It is considered that there are further processes such as licensing and policing that are better suited to controlling these particular implications. Initiatives such as CCTV within town centres are considered better ways of approaching these issues than using the planning system to refuse uses which otherwise accord with policy.

Appendix C contains a Planning Inspectorate Appeal decision into a similar case of a Class A3 use in Newcastle-under-Lyme.

The Inspector stated in paragraph 9 that:- "I am not concerned with liquor policy or, indeed, policing policy, but land use considerations. I am required to determine this proposal in accordance with the development, unless material considerations indicate otherwise. That is, I must determine this appeal on its planning merits. And, in that regard, I am satisfied Section 17 of the Crime and Disorder Act 1998 has in no way altered this obligation."

### **C. Sustainability**

The site is situated within the town centre where there is easy and convenient access by public transport, cycling and pedestrian access. Government advice and Development Plan policies encourage these types of uses to be situated within the town centre thereby maximising the accessibility of the site by non- car uses.

## 11.0 **CONCLUSION**

Applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. The proposed change of use of 25 Fore Street to Class A3 use is considered to be in accordance with the policies within the development plan. Although the impact that a potential licensed premises might have on the town centre needs to be taken into consideration, there is no certainty that the granting of this use class will lead to the property being used for such a premises. There is also no clear evidence that the inevitable outcome of this change of use would be to increase in crime and disorder in the town centre to an unacceptable level.

It is considered that an A3 use would be appropriate to this Grade II Listed Building, and appropriate to the prominent location within the town centre, with no detrimental impact on the viability and vitality of the town centre. I therefore recommend that permission be granted subject to the appropriate conditions.

**In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1998.**

**CONTACT OFFICER: Mr C D White Tel: 356465**